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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/693,555
Filing Date: October 24, 2003
Appellant(s): VEITH, JEROME S.

Andrew D. Stover
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed September 3, 2008 appealing from the Office action mailed March 18, 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,217,563	VAN GOMPEL et al	04-2001
6,437,214	EVERETT et al	08-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Gompel et al (U.S. Patent No. 6,217,563) in view of Everett et al (U.S. Patent No. 6,437,214).

With respect to **claim 1**: Van Gompel teaches a disposable absorbent garment 10 comprising: a body chassis defined by panels 52,53 having a terminal front waist edge 60, a terminal back waist edge 61 longitudinally spaced from said terminal front waist edge, a first length defined between said terminal front waist edge 60 and said terminal back waist edge 61, and a laterally extending centerline defined half way between said terminal front and back waist edges, wherein said body chassis (collectively, panels 52,53) is formed from a laminate structure having a plurality of layers, wherein all of said layers are the same length such that a thickness

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of said body chassis is the same along said length of said layers. This is evidenced by Van Gompel's teaching of one material for the panels that is a laminate, therefore it is considered herein to be one material of uniform thickness throughout. ('563, Col. 3, lines 62-67, Col. 5, lines 3,4, Col. 17, lines 42-48). Absorbent insert 32 is fixedly secured to said body chassis (i.e. panels 52,53), said absorbent insert 32 comprising a retention region comprising an absorbent material 48 ('563, Col. 19, lines 28-37), said retention region having first and second longitudinally spaced boundaries indicated by dashed lines in Fig. 1 that are indicated as the outer edges of wrap sheet 74, and a second length defined between said first and second boundaries. As can be seen in Fig. 1, there is no absorbent material 48 disposed longitudinally outside of said retention region defined between said first and second boundaries.

Van Gompel does not explicitly teach that said second length is less than or equal to 50% of said first length. Everett teaches an absorbent article having a first length as defined in the instant application disclosure and a second length, defined according to the application disclosure as the length between the first and second longitudinally spaced boundaries of a retention portion in the form of target area 52. Everett teaches that the target area begins at an imaginary line that is 24% of the article length from the front waist edge and terminates at an imaginary line that is 59% of the article length away from the front waist edge. Thus the second length is $59-24=35\%$ of the first length (i.e. the total article length), which falls within the claimed range. Everett teaches that this is called a target area because it is positioned at a point where it is believed that a majority of an insult of exudates will occur, thus it would be obvious to one of ordinary skill in the art to modify the article of Van Gompel by positioning the retention portion such that the second length is less than or equal to 50% of the first length as disclosed by Everett to ensure that the absorbent material is placed where a majority of the flow of exudates from an insult will occur. ('214, Col. 8, lines 35-43)

Van Gompel does not explicitly teach that at least 70% of said second length is positioned between said centerline and said terminal front waist edge. The second length taught by Everett begins at a boundary that is 24% of the length of the article away from the front waist edge, which is considered to be a point defining 0% of the length. The second boundary that defines the second length is 59% of the length away from the front waist edge. Thus, when one considers the lateral centerline to be 50% of the length of the article away from the front waist edge, a portion of the target area 52 that is located between the front waist edge (at the "24% mark") and the centerline ("the 50% mark") has a length that is equal to 50%-24%, or 26% of the length of the article. The total second length is a length that is 35% of the article length. Therefore, the percentage of the second length that is positioned between the centerline and the front waist edge is 26% article length (=portion of second length forward of the centerline)/35% article length (=total second length), or 74% of the second length, which meets the relevant claim limitation. The motivation to combine the teachings of Van Gompel and Everett has been stated *supra*.

With respect to **Claim 2**: The absorbent assembly comprises single retention member 48 defining a retention region. As can be seen in Fig. 2 taught by Van Gompel, retention portion 48 has first and second ends corresponding to first and second boundaries. ('563, Col. 3, lines 55-60)

With respect to **Claims 3,4**: Van Gompel teaches that the retention portion is comprised of 37% superabsorbent material by weight. ('563, Col. 31, lines 9-11)

With respect to **claim 5**: With regard to the limitation of claim 5, Van Gompel teaches superabsorbent materials that are identical to some of those disclosed by appellant, e.g. alkali

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metal and ammonium salts of polyacrylic acid and thus inherently have a centrifuge retention capacity within the claimed range. (Specification, page 19, lines 7,8, '3563, Col. 11, lines 19-21). When the structure or composition recited in the reference is substantially identical to that of the claims of the instant invention, claimed properties or functions presumed to be inherent (MPEP 2112-2112.01). A prima facie case of obviousness has been established when the reference discloses all the limitations of a claim (in this case, a superabsorbent material) except for a property or function (in the present case, the centrifuge retention capacity of the superabsorbent) and the examiner can not determine whether or not the reference inherently possesses properties that render obvious the claimed invention but has a basis for shifting the burden of proof to appellant, as per *In re Fitzgerald*, 619 F.2d 67, 205 USPQ 594 (CCPA 1980).

With respect to **claim 6**: Van Gompel teaches a disposable absorbent garment 10 comprising: a body chassis (collectively panels 52,53) having a terminal front waist edge 60, a terminal back waist edge 61 longitudinally spaced from said terminal front waist edge 60, a first length defined between said terminal front waist edge 60 and said terminal back waist edge 61, and a laterally extending centerline defined half way between said terminal front and back waist edges, wherein said body chassis 52,53 is formed from a laminate structure having a plurality of layers, wherein all of said layers have the same length such that a thickness of said body chassis is the same along said length of said layers; and an absorbent insert 32 fixedly secured to said body chassis, said absorbent insert 32 comprising a retention region indicated by dashed lines and continuous with the outer boundary of overwrap sheet 74 as shown in Fig. 1, comprising an absorbent material 48, wherein said absorbent material 48 comprises a superabsorbent material, said retention region having first and second longitudinally spaced boundaries indicated by said dashed lines continuous with the boundary of overwrap sheet 74 and a second length defined between said first and second boundaries, wherein there is no

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absorbent material 48 disposed longitudinally outside of said retention region defined between said first and second boundaries. ('563, Col. 3, lines 62-67, Col. 5, lines 3,4, Col. 17, lines 42-48, Col. 19, lines 28-37)

Van Gompel does not explicitly teach that said second length is less than or equal to 50% of said first length. Everett teaches an absorbent article having a first length as defined in the instant application disclosure and a second length, defined according to the application disclosure as the length between the first and second longitudinally spaced boundaries of a retention portion in the form of target area 52. Everett teaches that the target area begins at an imaginary line that is 24% of the article length from the front waist edge and terminates at an imaginary line that is 59% of the article length away from the front waist edge. Thus the second length is $59-24=35\%$ of the first length (i.e. the total article length), which falls within the claimed range. Everett teaches that this is called a target area because it is positioned at a point where it is believed that a majority of insult will occur. Thus, it would be obvious to one of ordinary skill in the art to modify the article of Van Gompel by positioning the retention portion such that the second length is less than or equal to 50% of the first length as disclosed by Everett to ensure that the absorbent material is placed where a majority of the flow of exudates from an insult will occur. ('214, Col. 8, lines 35-43)

Van Gompel does not explicitly teach that at least 70% of said second length is positioned between said centerline and said terminal front waist edge. The second length taught by Everett begins at a boundary that is 24% of the length of the article away from the front waist edge, which is considered to be a point defining 0% of the length. The second boundary that defines the second length is 59% of the length away from the front waist edge. Thus, considering the lateral centerline to be 50% of the length of the article away from the front waist edge, a portion of the target area 52 that is located between the front waist edge (the 24%

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mark) and the centerline (the 50% mark) has a length that is equal to 50%-24%, or 26% of the length of the article. The total second length is a length that is 35% of the article length.

Therefore, the percentage of the second length that is positioned between the centerline and the front waist edge is 26% article length (=portion of second length forward of the centerline)/35% article length (=total second length), or 74% of the second length, which meets the relevant claim limitation. The motivation to combine the teachings of Van Gompel and Everett has been stated *supra* in this rejection of claim 6. Everett teaches an absorbent density for layer 48 of absorbent material of 0.1 – 0.3 g/cc, which overlaps the claimed range and thus meets the claim limitation, as appellant reports the density of the claimed retention portion as being equivalent to the density of the claimed absorbent material 70 (¶0057). The motivation to combine the teachings of Van Gompel and Everett has been stated *supra* in this rejection of claim 6.

With respect to **Claim 7**: Van Gompel teaches a front body panel 52 comprising a terminal front waist edge 60 and a terminal front crotch edge 62 longitudinally spaced from said terminal waist edge 60, a rear body panel 53 comprising a terminal back waist edge 61 and a terminal crotch edge 63, longitudinally spaced from said terminal back waist edge, wherein the terminal crotch edge 63 of said rear body panel 53 is longitudinally spaced from, and forms a gap with, said terminal crotch edge 62 of said front body panel 52. The absorbent insert 32 comprises first and second longitudinally spaced end portions 82 and opposite laterally spaced side edges 80, and said absorbent insert 32 bridges said gap between said front and rear body panels with said first and second longitudinally spaced end portions overlying and connected to said front and rear body panels respectively, as is seen in Fig. 1 taught by Van Gompel. ('563, Col. 3, lines 49-67, Col. 13, line 39 – Col. 14, line 5)

With respect to **Claim 8**: Van Gompel teaches that the body panels 52,53 of the chassis are comprised of a nonwoven material. ('563, Col. 17, lines 18-22)

With respect to **Claim 9**: Van Gompel teaches that the body panels 52,53 (chassis) comprise an elastomeric material that is stretchable along the lateral width 54 of the article. ('563, Col. 17, lines 42-45)

With respect to **claim 10**: Van Gompel teaches a pair of fasteners 36 positioned at one end of said body chassis on opposite sides thereof (Fig. 1), wherein said at least said pair of fasteners releasably engages an opposite end of said body chassis on said opposite sides thereof with a pair of leg openings being defined at least in part by said body chassis. ('563, Col. 5, lines 32-38)

With respect to **claim 11**: Van Gompel teaches a disposable absorbent garment 10 comprising: a front body panel 58 comprising a terminal waist edge and a terminal crotch edge; a rear body panel 60 comprising a terminal waist edge and a terminal crotch edge, wherein said terminal crotch edge of said rear body panel is longitudinally spaced from and forms a gap with said terminal crotch edge of said front body panel, and wherein a first length is defined between said terminal waist edge of said front body panel and said terminal waist edge of said rear body panel, and wherein a laterally extending centerline is defined half way between said terminal waist edges of said front and rear body panels; and an absorbent insert 32 comprising first and second longitudinally spaced end portions each having a terminal edge and opposite laterally spaced side edges, wherein said absorbent insert 32 bridges said gap between said front and rear body panels with said first and second end portions overlying and connected to said front

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and rear body panels respectively and with said terminal edges of said first and second end portions longitudinally spaced from said terminal waist edges of said front and rear body panels respectively and with said terminal edges of said first and second end portions longitudinally spaced from said terminal crotch edges of said front and rear body panels respectively, said absorbent insert 32 comprising a retention member formed from an absorbent material 48, said retention member having first and second longitudinally spaced ends and a second length defined between said first and second ends. ('563, Col. 3, lines 62-67, Col. 5, lines 3,4, Col. 17, lines 42-48, Col. 19, lines 28-37)

Van Gompel does not explicitly teach that at least 70% of said second length is positioned between said centerline and said terminal front waist edge. The second length taught by Everett begins at a boundary that is 24% of the length of the article away from the front waist edge, which is considered to be a point defining 0% of the length. The second boundary that defines the second length is 59% of the length away from the front waist edge. Thus, considering the lateral centerline to be 50% of the length of the article away from the front waist edge, a portion of the target area 52 that is located between the front waist edge and the centerline has a length that is equal to 50%-24%, or 26% of the length of the article. The total second length is a length that is 35% of the article length. Therefore, the percentage of the second length that is positioned between the centerline and the front waist edge is 26% article length (=portion of second length forward of the centerline)/35% article length (=total second length), or 74% of the second length, which meets the relevant claim limitation. Everett teaches that this is called a target area because it is positioned at a point where it is believed that a majority of an insult of exudates will occur, thus it would be obvious to one of ordinary skill in the art to modify the article of Van Gompel such that the second length is less than or equal to 50%

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of the first length as taught by Everett to ensure that the absorbent material is placed where a majority of the flow of exudates from an insult will occur. ('214, Col. 8, lines 35-43)

With respect to **claim 12**: Van Gompel does not explicitly teach that said second length is less than or equal to 50% of said first length. Everett teaches an absorbent article having a first length as defined in the instant application disclosure and a second length, defined according to the application disclosure as the length between the first and second longitudinally spaced boundaries of a retention portion in the form of target area 52. Everett teaches that the target area begins at an imaginary line that is 24% of the article length from the front waist edge and terminates at an imaginary line that is 59% of the article length away from the front waist edge. Thus the second length is $59-24=35\%$ of the first length (i.e. the total article length), which falls within the claimed range. Everett teaches that this is called a target area because it is positioned at a point where it is believed that a majority of an insult of exudates will occur, thus it would be obvious to one of ordinary skill in the art to modify the article of Van Gompel by positioning the retention portion such that the second length is less than or equal to 50% of the first length as disclosed by Everett to ensure that the absorbent material is placed where a majority of the flow of exudates from an insult will occur. ('214, Col. 8, lines 35-43)

With respect to **claim 13**: Van Gompel teaches that the retention portion is comprised of 37% superabsorbent material by weight. ('563, Col. 31, lines 9-11)

With respect to **Claim 14**: Van Gompel teaches that the body panels 52,53 of the chassis are comprised of a nonwoven material. ('563, Col. 17, lines 18-22)

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With respect to **Claim 15**: Van Gompel teaches that the body panels 52,53 (chassis) comprise an elastomeric material that is stretchable along the lateral width 54 of the article. ('563, Col. 17, lines 42-45)

With respect to **claim 16**: Van Gompel teaches a pair of fasteners 36 positioned at one end of said body chassis on opposite sides thereof (Fig. 1), wherein said at least said pair of fasteners releasably engages an opposite end of said body chassis on said opposite sides thereof with a pair of leg openings being defined at least in part by said body chassis. ('563, Col. 5, lines 32-38)

With respect to **claim 17**: Van Gompel teaches a method of assembling a disposable absorbent garment 10 comprising: providing a body chassis (collectively panels 52,53) having a terminal front waist edge 60, a terminal back waist edge 61 longitudinally spaced from said terminal front waist edge, a first length defined between said terminal front waist edge and said terminal back waist edge, and a laterally extending centerline defined half way between said terminal front and back waist edge, wherein said body chassis is formed from a laminate structure having a plurality of layers, wherein all of said layers have the same length such that a thickness of said body chassis is the same along said length of said layers; and fixedly securing an absorbent insert 32 to said body chassis, wherein said absorbent insert 32 comprises a retention region comprising an absorbent material 48, said retention region having first and second longitudinally spaced boundaries and a second length defined between said first and second boundaries, and wherein there is no absorbent material disposed outside of said retention region defined

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between said first and second boundaries. ('563, Col. 3, lines 62-67, Col. 5, lines 3,4, Col. 17, lines 42-48, Col. 19, lines 28-37)

Van Gompel does not explicitly teach that said second length is less than or equal to 50% of said first length. Everett teaches an absorbent article having a first length as defined in the instant application disclosure and a second length, defined according to the application disclosure as the length between the first and second longitudinally spaced boundaries of a retention portion in the form of target area 52. Everett teaches that the target area begins at an imaginary line that is 24% of the article length from the front waist edge and terminates at an imaginary line that is 59% of the article length away from the front waist edge. Thus the second length is $59-24=35\%$ of the first length (i.e. the total article length), which falls within the claimed range. Everett teaches that this is called a target area because it is positioned at a point where it is believed that a majority of an insult of exudates will occur, thus it would be obvious to one of ordinary skill in the art to modify the article of Van Gompel by positioning the retention portion such that the second length is less than or equal to 50% of the first length as disclosed by Everett to ensure that the absorbent material is placed where a majority of the flow of exudates from an insult will occur. ('214, Col. 8, lines 35-43)

Van Gompel does not explicitly teach that at least 70% of said second length is positioned between said centerline and said terminal front waist edge. The second length taught by Everett begins at a boundary that is 24% of the length of the article away from the front waist edge, which is considered to be a point defining 0% of the length. The second boundary that defines the second length is 59% of the length away from the front waist edge. Thus, considering the lateral centerline to be 50% of the length of the article away from the front waist edge, a portion of the target area 52 that is located between the front waist edge and the centerline has a length that is equal to $50\%-24\%$, or 26% of the length of the article. The total

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second length is a length that is 35% of the article length. Therefore, the percentage of the second length that is positioned between the centerline and the front waist edge is 26% article length (=portion of second length forward of the centerline)/35% article length (=total second length), or 74% of the second length, which meets the relevant claim limitation. The motivation to combine the teachings of Van Gompel and Everett has been stated *supra* in this rejection of claim 17.

With respect to **Claim 18**: The absorbent assembly comprises single retention member 48 defining a retention region. As can be seen in Fig. 2, retention portion 48 has first and second ends corresponding to first and second boundaries. ('563, Col. 3, lines 55-60)

With respect to **claim 19**: Van Gompel teaches that the retention portion is comprised of 37% superabsorbent material by weight. ('563, Col. 31, lines 9-11)

With respect to **claim 20**: Van Gompel teaches a method of assembling a disposable absorbent garment comprising: providing a body chassis in the form of panels 58 and 60 having a terminal front waist edge 60, a terminal back waist edge 61 longitudinally spaced from said terminal front waist edge, a first length defined between said terminal front waist edge and said terminal back waist edge, and a laterally extending centerline defined half way between said terminal front and back waist edge; and fixedly securing an absorbent insert 32 to said body chassis, wherein said absorbent insert 32 comprising a retention region comprising an absorbent material 48, said retention region having first and second longitudinally spaced boundaries and a second length defined between said first and second boundaries, and wherein there is no absorbent material disposed outside of said retention region defined between said first and second boundaries;

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wherein said body chassis comprises a front body panel 58 comprising said terminal front waist edge 60 and a terminal crotch edge longitudinally spaced from said terminal front waist edge, and a rear body panel 60 comprising said terminal back waist edge 61 and a terminal crotch edge longitudinally spaced from said terminal back waist edge, said terminal crotch edges of said front and rear body panels being longitudinally spaced to form a gap therebetween, and wherein said absorbent insert 32 comprises first and second longitudinally spaced end portions each having a terminal edge and opposite laterally spaced side edges, and wherein said fixedly securing said absorbent insert to said body chassis comprises bridging said gap between said front and rear body panels with absorbent insert 32 wherein said first and second end portions overlie said front and rear body panels respectively, and fixedly securing said first and second end portions to said front and rear body panels respectively with said terminal edges of said first and second end portions longitudinally spaced from said terminal waist edges of said front and rear body panels respectively and with said terminal edges of said first and second end portions longitudinally spaced from said terminal crotch edges of said front and rear body panels respectively. ('563, Col. 3, lines 62-67, Col. 5, lines 3,4, Col. 17, lines 42-48, Col. 19, lines 28-37)

Van Gompel does not explicitly teach that said second length is less than or equal to 50% of said first length. Everett teaches an absorbent article having a first length as defined in the instant application disclosure and a second length, defined according to the application disclosure as the length between the first and second longitudinally spaced boundaries of a retention portion in the form of target area 52. Everett teaches that the target area begins at an imaginary line that is 24% of the article length from the front waist edge and terminates at an imaginary line that is 59% of the article length away from the front waist edge. Thus the second length is $59-24=35\%$ of the first length (i.e. the total article length), which falls within the claimed

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range. Everett teaches that this is called a target area because it is positioned at a point where it is believed that a majority of an insult of exudates will occur, thus it would be obvious to one of ordinary skill in the art to modify the article of Van Gompel by positioning the retention portion such that the second length is less than or equal to 50% of the first length as disclosed by Everett to ensure that the absorbent material is placed where a majority of the flow of exudates from an insult will occur. ('214, Col. 8, lines 35-43)

Van Gompel does not explicitly teach that at least 70% of said second length is positioned between said centerline and said terminal front waist edge. The second length taught by Everett begins at a boundary that is 24% of the length of the article away from the front waist edge, which is considered to be a point defining 0% of the length. The second boundary that defines the second length is 59% of the length away from the front waist edge. Thus, considering the lateral centerline to be 50% of the length of the article away from the front waist edge, a portion of the target area 52 that is located between the front waist edge and the centerline has a length that is equal to 50%-24%, or 26% of the length of the article. The total second length is a length that is 35% of the article length. Therefore, the percentage of the second length that is positioned between the centerline and the front waist edge is 26% article length (=portion of second length forward of the centerline)/35% article length (=total second length), or 74% of the second length, which meets the relevant claim limitation. The motivation to combine the teachings of Van Gompel and Everett has been stated *supra* in this rejection of claim 20.

With respect to **Claim 21**: Van Gompel teaches that the body panels 52, 53 of the chassis are comprised of a nonwoven material. ('563, Col. 17, lines 18-22)

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With respect to **Claim 22**: Van Gompel teaches that the body panels 52,53 (chassis) comprise an elastomeric material that is stretchable along the lateral width 54 of the article. ('563, Col. 17, lines 42-45)

With respect to **claim 23**: Van Gompel teaches a pair of fasteners 36 positioned at one end of said body chassis on opposite sides thereof (Fig. 1), wherein said at least said pair of fasteners releasably engages an opposite end of said body chassis on said opposite sides thereof with a pair of leg openings being defined at least in part by said body chassis. ('563, Col. 5, lines 32-38)

(10) Response to Argument

Appellant's arguments filed with the Brief have been fully considered but they are not persuasive.

With respect to arguments under heading A: Appellant argues with respect to claim 1 that there is no motivation to modify the article of Van Gompel to meet the limitation that the second length as defined by appellant of the Van Gompel article is less than or equal to 50% of the first length as defined because the retention portion of Everett is not limited to the target area 52 and thus there is absorbent material outside the first and second longitudinal boundaries whereas claim 1 requires no absorbent material outside said first and second boundaries. To clarify examiner's position, the target area 52 of Everett is the "intended intake, target area" (Col. 8, line 36). The prior art of Van Gompel meets all of the structural limitations of the article of claim 1, yet does not meet the limitations regarding the relationship between the first length and second length of the article. The only criticality appellant discloses for these limitations is that they result in an article particularly suited for male users, therefore examiner

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regards the limitations as optimizations of the positioning of the retention portion. The prior art of Everett was therefore introduced as further support for the motivation to optimize the placement of the retention portion of Van Gompel to meet the limitations regarding the first and second lengths. Examiner is not suggesting the modification of the Van Gompel article by replacing the retention portion with the retention portion of Everett. Examiner is merely stating that, because target area 52 is the intended target area to absorb insult or exudate, its position is crucial to the performance of the article and therefore it would certainly be obvious to modify the retention portion of Van Gompel so that its relative position in the article conforms to the position disclosed by Everett, i.e. a first boundary that is at a point that is 24% of the length from the front waist edge, and the second boundary is at a point 59% of the length of the article from the front waist edge to ensure that the retention portion is positioned in such a way that optimizes absorption of exudate, even for male users, as the article of Everett appears to perform equally well for users of either gender. The balance of appellant's arguments under heading A appear to also rely on appellant's belief that examiner is suggesting replacement of the core of Van Gompel with the core of Everett and thus these arguments are not persuasive for the same reasons.

With respect to arguments under heading B: Appellant argues again that the article of Van Gompel as modified by Everett does not meet the limitation of no absorbent material present outside the first and second longitudinal boundaries. Again, this argument appears to rely on appellant's belief that examiner is suggesting the replacement of the retention portion of Van Gompel with the retention portion of Everett within the Van Gompel article, which is not what examiner is suggesting. Therefore, arguments under heading B with respect to claim 11 are also not persuasive.

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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Melanie J Hand/

Examiner, Art Unit 3761

Conferees:

/Tatyana Zalukaeva/

Supervisory Patent Examiner, Art Unit 3761

/Michele Kidwell/

Primary Examiner, Art Unit 3761